

## APPENDIX

Set forth below are cases collected from the May 1964 to April 1968 editions of THE BULLETIN & THE CHRONICLE, a reporter published jointly by the Association of American Railroads and the National Association of Railroad Trial Counsel. These cases represent what the respondent believes to be a complete list of all cases reported in that publication which describe a plaintiff's injury and state the damage award. The cases are listed in the order in which they appear in the volumes of the publication.

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*Oberski v. New Haven Gas Co.*, 197 A.2d 73 (Conn. 1964). \$50,000 for burns over 20% of 42-year-old plaintiff's body and \$10,000 for special damages were not excessive.

*Jines v. Greyhound Corp.*, 197 N.E.2d 58 (Ill. App. 1964). \$400,000 not excessive for damages to 21-year-old father of two children who was completely paralyzed in the lower extremities and almost completely paralyzed in the upper extremities.

*Edmiston v. Kupsenel*, 135 S.E.2d 777 (Va. 1964). \$28,500 not excessive for severe head injuries, fractures of two ribs, and back injury to 51-year-old plaintiff.

*Duncan v. Smith*, 376 S.W.2d 877 (Tex. Civ. App. 1964). \$175,000 excessive in amount over \$114,000 for extensive third degree burns to plaintiff's face and body.

*Dindo v. Grand Union Co.*, 331 F.2d 138 (2d Cir. 1964). \$12,500 not excessive for injury sustained when a can of beans fell 18 inches from store display and struck the plaintiff on the shoulder causing contusions.

*Meagher v. Garvin*, 391 P.2d 507 (Nev. 1964). \$125,107.60 to a 58-year-old woman who suffered a leg fracture which left her leg 2½ inches shorter, and \$17,500 to her husband who suffered broken ribs and loss of his wife's services were not excessive.

*Adair v. Northern Pacific Ry.*, 392 P.2d 830 (Wash. 1964). \$13,750, less 40% for contributory negligence,

awarded in FELA action where employee slipped and fell on ice.

*Van Slyke v. New York Central R.R.*, 249 N.Y.S.2d 462 (App. Div. 1964). \$60,000, reduced to \$45,000 because of contributory negligence, was excessive for a herniated-disc back injury where plaintiff's lost time was approximately two weeks.

*Watson v. Wilkinson Trucking Co.*, 136 S.E.2d 286 (S.C. 1964). \$40,000 not excessive for 27-year-old plaintiff who suffered ruptured disc and aggravation of a pre-existing hip condition.

*Coffman v. St. Louis-San Francisco Ry.*, 378 S.W.2d 583 (Mo. 1964). \$270,000 held excessive by \$50,000, where 16-year-old plaintiff suffered severance of his spinal cord, causing complete paralysis of the lower extremities, almost complete paralysis of the upper, and an inability to control bladder and bowels.

*Jenkins v. Associated Transport, Inc.*, 330 F.2d 706 (6th Cir. 1964). \$100,000 not excessive for severe burns and multiple fractures to 36-year-old plaintiff.

*Royal Indemnity Co. v. Magee*, 331 F.2d 595 (5th Cir. 1964). \$45,000 held not excessive to woman, four months pregnant, who suffered severe facial lacerations and "psychoneurotic reactions."

*Breckin v. Lewis*, 251 N.Y.S.2d 77 (App. Div. 1964). \$75,000 excessive by \$40,000 for wrongful death of plaintiff's 21-year-old daughter.

*Joe Rone Grain Co. v. McFarland*, 381 S.W.2d 220 (Tex. Civ. App. 1964). \$22,094 to a 21-year-old man who suffered severe whiplash was not excessive.

*Direct Transport Co. of Fla. v. Rakaskas*, 167 So.2d 623 (Fla. App. 1964). \$290,000 not excessive for multiple fractures to plaintiff's pelvis, rendering him "unable to control many of the normal body functions or [to] perform as a normal human being."

*Calhoun v. Hildebrandt*, 40 Cal. Rptr. 690 (Cal. App. 1964). \$3,500 not inadequate despite fact that medical and hospital expenses and wage loss amounted to more than \$3,988.

*Olson v. Siorpia*, 130 N.W.2d 827 (Wisc. 1964). \$25,000 held excessive for fractured right femur of 86-year-old female plaintiff.

*Pitts v. Greene*, 382 S.W.2d 904 (Ark. 1964). \$40,000 held, not excessive for mental anguish of both parents for wrongful death of 17-year-old daughter.

*Dowd v. Webb*, 337 F.2d 93 (3d Cir. 1964). \$18,677 not inadequate for loss of sight of one eye, nose fracture and other injuries.

*Francis v. Barnes*, 130 N.W.2d 683 (Iowa 1964). \$22,500 not excessive for disc injury to 59-year-old woman.

*Zawoyski v. Pittsburgh Railways Co.*, 204 A.2d 463 (Pa. 1964). \$15,000 not excessive to fireman who was injured in chest and hip.

*Farrow v. Cundiff*, 383 S.W.2d 119 (Ky. 1964). \$700 not inadequate for injury to an unemployed woman.

*Shupe v. New York Central System*, 339 F.2d 998 (7th Cir. 1965). \$121,444 held excessive for shoulder injury to male plaintiff.

*Derewecki v. Pennsylvania R.R.*, 36 F.R.D. 195 (W.D. Pa. 1964). \$30,000 for injury during lifetime of employee and \$50,000 for benefit of widow and children for his death were not excessive when deceased suffered extreme pain and two myocardial infarctions.

*Caldwell v. Shoptaw*, 385 S.W.2d 799 (Ark. 1965). \$24,000 not excessive for neck and back injuries to a 41-year-old married woman.

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*Matta v. Welcher*, 378 S.W.2d 265 (Mo. App. 1965). \$8,000 for injury to foot creating the possibility of arthritis required a remittitur of \$4,000.

*Ganotis v. New York Central Ry.*, 342 F.2d 767 (6th Cir. 1965). \$30,000 in a FELA action, reduced by 50% for contributory negligence, where mail bag struck employee.

*Colorado & So. Ry. v. Lombardi*, 400 P.2d 428 (Colo. 1965). \$12,000 for severe injuries to employee's foot caused when door fell upon it.

*City of Houston v. Moore*, 389 S.W.2d 545 (Tex. Civ. App. 1965). \$47,200 not excessive for cervical laminectomy injury.

*Sharpe v. Steel*, 208 A.2d 43 (Pa. Sup. 1965). \$1,800 held inadequate for neck injury to male plaintiff.

*Currie v. Fiting*, 134 N.W.2d 611 (Mich. 1965). \$32,778 to parents for wrongful death of their 21-year-old daughter.

*Pierce v. Mowry*, 210 A.2d 484 (N.H. 1965). \$6,581 held excessive by \$3,000 for death of a 13-year-old deaf mute with cerebral palsy.

*Knotts v. Valocchi*, 207 N.E.2d 379 (Ohio 1963). \$42,000 not excessive for permanent injuries requiring 27 days hospitalization.

*Shaw v. Texas & Pacific Ry.*, 170 So.2d 874 (La. 1965). \$50,000 awarded in FELA action for wrongful death.

*Whittaker v. Cole*, 390 S.W.2d 893 (Ky. 1965). \$25,000 not excessive for two fractured legs of 51-year-old garage owner who was receiving a 40% disability pension.

*Kodack v. Long Island R.R.*, 342 F.2d 244 (2d Cir. 1965). \$100,000 for back injuries upheld.

*Newman v. Dalton*, 141 S.E.2d 677 (Va. 1965). \$40,000 not excessive for fractured skull and hip socket of 70-year-old male plaintiff.

*Nicholson v. Blanchette*, 210 A.2d 732 (Md. 1965). \$20,000 for injuries to 59-year-old female plaintiff and \$15,000 awarded plaintiff's husband for loss of consortium.

*Mayer v. Sampson*, 402 P.2d 185 (Colo. 1965). \$1,787 and \$4,500 held not excessive for injuries to leg, neck and back.

*Drosch v. Kato*, 400 P.2d 8 (Ore. 1965). \$93,000 held not excessive for injuries to 54-year-old longshoreman who suffered permanent injury to internal organs (removal

of about one-half of left colon), hernia and lame back and neck.

*Braswell v. New York, C. & St. Louis R.R.*, 208 N.E.2d 358 (Ill. App. 1965). \$65,000 held not excessive for compressed fracture of first lumbar vertebra and compression deformity of second lumbar vertebra.

*Sodergren v. Goodman*, 242 F. Supp. 44 (E.D.S.C. 1965). \$10,500 awarded 38-year-old unmarried woman for general body soreness and severe headaches.

*Miller v. DeWitt*, 208 N.E.2d 249 (Ill. App. 1965). Three employees awarded \$90,000 (for "crushing" of right leg, fracture of eight ribs and two vertebrae, with leg requiring a permanent 6"-7" steel plate), \$30,000 (for fracture of left heel, causing impaction and resulting in permanent disability of left foot), and \$5,000 (for lacerations and sprains) for injuries suffered when roof collapsed.

*Stiles v. Gove*, 345 F.2d 991 (9th Cir. 1965). \$31,728 awarded for wrongful death of 52-year-old woman when stagecoach overturned.

*Young v. Hearin Tank Lines*, 176 So.2d 790 (La. App. 1965). \$52,814 for injuries to employee's eyes when creosote splashed into them, held not excessive.

*Deemer v. Reichart*, 404 P.2d 174 (Kan. 1965). \$23,950 for dislocation and comminuted fracture of hip, requiring 51 days in traction, causing phlebitis, and rendering plaintiff unfit for prior employment, held not excessive for 42-year-old man.

*Fairbanks v. Yellow Cab Co.*, 346 F.2d 258 (7th Cir. 1965). \$30,000 not excessive for cervical injury to corporation executive.

*Johnson v. Colglazier*, 348 F.2d 420 (5th Cir. 1965). Husband (back injury) and wife (fractured vertebra, crushed ankle and rib injuries) awarded \$24,486 and \$46,220 respectively for injuries received in traffic accident. Reversed on other grounds, but held not excessive *per se*.

*Underwood v. Pennsylvania R.R.*, 210 N.E.2d 347 (Ill. App. 1965). \$55,000 for permanent eye injury when debris blew in employee's eyes.

*Zaninovich v. American Airlines*, 262 N.Y.S.2d 854 (Sup. Ct. 1965). \$755,000 damages held not excessive for the death of both parents of four children (father 29, earning \$14,900 per year; mother 28).

*Thill v. Modern Erecting Co.*, 136 N.W.2d 677 (Minn. 1965). \$642,400 to man left paraplegic by construction accident reduced to \$375,000 by trial court.

*Movable Offshore Co. v. Ousley*, 346 F.2d 870 (5th Cir. 1965). \$115,000 to construction employee for leg injury resulting in 40% loss of effective use of knee joint was generous but not excessive.

*Marmo v. Chicago, R.I. & P.R.R.*, 350 F.2d 236 (7th Cir. 1965). \$160,000 held not excessive for loss of hand of 38-year-old railroad machinist.

*Galloway v. Atlantic Coast Line Railroad Co.*, 242 F. Supp. 211 (E.D.S.C. 1965). \$50,000 to 59-year-old railroad car inspector for injuries that disfigured the plaintiff and left him "an obvious cripple for the remainder of his life."

*Poe v. Pittman*, 144 S.E.2d 671 (W. Va. 1965). \$10,000 damages not excessive for fractures to arm and leg of lineman.

*Hook v. Dubuque*, 214 A.2d 377 (Conn. 1965). \$7,500 not excessive for two years of recurring headache pain.

*Hurtig v. Bjork*, 138 N.W.2d 62 (Ia. 1965). \$28,000 to parents of six-year-old girl for her wrongful death; remittitur of \$16,000.

*Robertson v. Rig-A-Lite Co.*, 394 S.W.2d 838 (Tex. Civ. App. 1965). \$500,000 not excessive to 31-year-old man who lost both hands and one leg.

*Teegarden v. Dahl*, 138 N.W.2d 668 (N.D. 1965). \$12,500 for plaintiff's injuries and \$17,500 for her husband's wrongful death.

*Russell v. Gulf, M. & O. RR.*, 397 S.W.2d 583 (Mo. 1965). \$45,000 to car-man helper held excessive by \$25,000 for permanent injuries to back muscles.

*Brown v. Marker*, 410 P.2d 61 (Okla. 1965). \$50,000 held not excessive for facial scar and leg abnormalities to 5-year-old girl.

*Fort Worth & D. Ry. v. Coffman*, 397 S.W.2d 544 (Tex. Civ. App. 1965). \$160,000 held not excessive for head injuries incapacitating plaintiff from employment as a conductor who had earned \$9,000 per year and causing imbalance and an inability to walk normally.

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*Bridger v. Union Ry.*, 355 F.2d 382 (6th Cir. 1966). \$60,000 for loss of one leg.

*Atlantic Coast Line R.R. v. Braz*, 182 So.2d 491 (Fla. App. 1966). \$185,000 for wrongful death of wife and \$40,000 for wrongful death of daughter, upheld with remittitur of \$25,000 with respect to death of wife.

*Goodman v. Terminal Railroad Ass'n of St. Louis*, 215 N.E.2d 457 (Ill. App. 1966). \$125,000 award for injury which left employee permanently crippled; trial court ordered \$45,000 remittitur.

*Holfester v. Long Island R.R.*, 360 F.2d 369 (2d Cir. 1966). \$250,000 for extensive first, second and third degree burns from middle of body down extremities, causing permanent and serious disability.

*Boston & Maine R.R. v. Talbert*, 360 F.2d 286 (1st Cir. 1966). \$113,780 held not excessive in FELA action for wrongful death.

*McDonald v. Missouri-Kansas-Texas R.R.*, 401 S.W.2d 465 (Mo. 1966). \$38,541 held not excessive in FELA action for fracture of base of skull which rendered plaintiff "industrially unemployable" for the remainder of his life (40.7 year expectancy).

*McLaughlin v. Chicago, M., St. P. & P. Ry.*, 143 N.W.2d 32 (Wisc. 1966). \$4,000 to priest whose injuries required several hospitalizations held inadequate. Court ordered defendant to consent to award of \$15,000. Additional award of \$12,500 for impairment of professional duties upheld.

*Hollis v. Terminal R.R. Ass'n*, 218 N.E.2d 231 (Ill. App. 1966). \$175,000 for back injuries requiring laminectomy reduced to \$125,000.

*Cutter v. Cincinnati Union Terminal Co.*, 361 F.2d 637 (6th Cir. 1966). \$60,000 for injury to foot in FELA action.

*Parker v. Reading Co.*, 363 F.2d 608 (3d Cir. 1966). \$100,000 for wrongful death of husband; reversed on other grounds.

*Lehigh Valley R.R. v. American Smelting & Ref. Co.*, 256 F. Supp. 534 (E.D. Pa. 1966). \$22,500 for wrongful death.

*Brogdon v. Southern Railway*, 253 F. Supp. 676 (E.D. Tenn. 1966). \$20,000 jury verdict awarded widow of industry employee killed on job.

*Waller v. Southern Pacific Co.*, 54 Cal. Rptr. 421 (Cal. App. 1966). \$35,000 FELA award to train dispatcher who was allowed to return to work by railroad doctor, thus aggravating his arteriosclerosis.

*New Orleans & N. R.R. v. Thornton*, 191 So.2d 547 (Miss. 1966). \$150,000 for wrongful death of 44-year-old housewife who died of breast cancer caused by accident; held excessive, remittitur of \$35,000 ordered.

*American National Bank & Trust Co. v. Pennsylvania R.R.*, 219 N.E.2d 529 (Ill. 1966). \$275,000 to boy, 13, for loss of both legs.

*Seiferth v. St. Louis S. Ry.*, 368 F.2d 153 (7th Cir. 1966). Boy, 16, awarded \$48,000 and father \$7,000 for loss of boy's leg; reversed on other grounds.

*Edwards v. Passarelli Bros. Automotive Service, Inc.*, 8 OS(2d) 6 (Ohio 1966). \$10,000 for injuries in collision.

*Blackburn v. Aetna Freight Lines*, 368 F.2d 345 (3d Cir. 1966). \$80,000 for wrongful death of husband.

*McCann v. Smith*, 370 F.2d 323 (2d Cir. 1966). \$50,000 for permanent injuries suffered when engineer assaulted in railroad bunkroom.

*Vandaveer v. Norfolk & Western Ry.*, 222 N.E.2d 897 (Ill. App. 1966). \$40,000 verdict for injuries and consequent ulcer caused by assault upon female employee.

*Minton v. Southern Ry.*, 368 F.2d 719 (6th Cir. 1966). \$10,000 for wrongful death of 72-year-old woman.

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*Budd v. Erie L. R.R.*, 225 A.2d 171 (N.J. 1966). \$58,500 for death, \$6,000 for pain and suffering in FELA action.

*Bonastia v. Terminal R.R. Ass'n*, 409 S.W.2d 122 (Mo. 1966). \$50,000 in FELA action for death of employee.

*Mixon v. Atlantic Coast Line R.R.*, 370 F.2d 852 (5th Cir. 1966). \$81,532 for limb amputations.

*St. John's River Terminal Co. v. Vaden*, 190 So.2d 40 (Fla. App. 1966). \$90,500 to employee whose foot was amputated.

*Kansas City So. Ry. v. Powell*, 411 S.W.2d 633 (Tex. Civ. App. 1967). \$80,000 to 44-year-old fireman for functional loss of 50 percent of leg required remittitur of \$12,000.

*Louisville & N.R.R. v. Wade*, 195 So.2d 101 (Ala. 1967). \$5,000 for two broken ribs.

*Chicago, R.I. & P.R.R. v. Hawes*, 424 P.2d 6 (Okla. 1967). \$30,000 to employee who suffered ankle injury and had lost \$8,000 in past wages and presented disputed evidence of future disability.

*Missouri Pacific R.R. v. Hesse*, 417 S.W.2d 379 (Tex. Civ. App. 1967). \$71,170 for fractures of leg and pelvis, compensating plaintiff for past and future pain and suffering, loss of earnings, impairment of future earnings and medical expenses.

*O'Brien v. Great N. R.R.*, 421 P.2d 710 (Mont. 1966). \$204,000 to wife and minor children of driver killed in crossing accident.

*St. Louis S. Ry. v. Farrell*, 416 S.W.2d 334 (Ark. 1967). \$70,000 for wrongful death of mother and mental anguish to children, ages 44, 47 and 50, held excessive by \$20,000.

*Seaboard Air Line R.R. v. Gay*, 201 So.2d 238 (Fla. App. 1967). \$80,000 to mother who suffered mental anguish due to death of 12-year-old daughter in train-auto collision held not excessive.

*Jones v. Chesapeake & Ohio Ry.*, 371 F.2d 545 (4th Cir. 1966). \$97,660 for plaintiff's leg amputation and hip dislocation.

*Bartholomay v. St. Thomas Lumber Co.*, 148 N.W.2d 278 (N.D. 1966). \$32,000 to 22-month-old girl and 3-year-old boy for wrongful death of mother held not excessive.

*Del Raso v. Elgin, J. & E. Ry.*, 228 N.E.2d 470 (Ill. App. 1967). Awards ranging from \$3,000 to \$14,500 in favor of four carmen due to lead poisoning which caused nausea, leg and stomach pains, and loss of appetite.

*Flaherty v. Pennsylvania R.R.*, 231 A.2d 179 (Pa. 1967). \$30,000 for fall which "shattered" clavicle and knocked plaintiff unconscious.

*Western Ry. of Ala. v. Brown*, 196 So.2d 392 (Ala. 1967). \$14,213 to passenger who sustained injuries to leg aggravating varicosities.

*Jehl v. Southern Pac. Co.*, 427 P.2d 988 (Cal. 1967). \$100,000 to 19-year-old brakeman who had right leg amputated below knee and osteomyelitis in left leg held inadequate; case remanded for additur.

*Henninger v. Southern Pac. Co.*, 59 Cal. Rptr. 76 (Cal. App. 1967). \$650,000 to 29-year-old conductor who lost both legs above the knee and presented evidence that he could never wear a functional prosthesis and would, therefore, require a full-time attendant throughout the rest of his life.

*Chesapeake & O. Ry. v. Biliter*, 413 S.W.2d 894 (Ky. 1967). \$18,600 to parents allegedly dependent upon son, 44, killed in train wreck found excessive to the extent exceeded \$13,750.

*Wells v. Gulf Mobil & O. R.R.*, 266 N.E.2d 662 (Ill. App. 1967). \$75,000 FELA award to 39-year-old pipe fitter who injured back and who worked only 3 days in 22 months following last employment held not excessive.

*Cox v. Northwest Airlines, Inc.*, 379 F.2d 893 (D.C. Cir. 1967). \$329,956 for wrongful death of husband and father, who at age 29 had projected future income of between \$15,000 and \$20,000, held excessive on the

ground that the award was not discounted to present value.

*Dixon v. Pennsylvania R.R.*, 378 F.2d 392 (3d Cir. 1967). \$4,000 for injury that allegedly prevented plaintiff from climbing or lifting heavy objects held not inadequate.

*Brogdon v. Southern Ry.*, 384 F.2d 220 (6th Cir. 1967). \$20,000 to surviving widow.

*Brooks v. United States*, 273 F. Supp. 619 (D.S.C. 1967). \$200,239 for wrongful death of man 33, survived by wife and 3 children.

*Atlantic Coast Line R.R. v. Daugherty*, 157 S.E.2d 880 (Ga. App. 1967). \$62,767 in FELA action for wrongful death.

*Houston B. & T. Ry. v. Weingarten*, 421 S.W.2d 431 (Tex. Civ. App. 1967). \$51,749 for wrongful death.

*Kaufman v. Miller*, 414 S.W.2d 164 (Tex. 1967). \$25,000 for disabling nervous disorder caused by injury.

*Gaddy v. Louisville & N.R.R.*, 386 F.2d 772 (6th Cir. 1967). \$100,500 to widow and two minor children.